

Committee on Resources

Full Committee

Witness Statement

STATEMENT OF
NICHOLAS M. GESS
ASSOCIATE DEPUTY ATTORNEY GENERAL
U.S. DEPARTMENT OF JUSTICE

I. Introduction

Mr. Chairman, Congressman Miller, and members of the Committee, good afternoon. I am Nicholas M. Gess, Associate Deputy Attorney General of the United States Department of Justice. I would first like to thank the Chairman, the Ranking Minority Member, and the Committee Members for the opportunity to testify today. The issue of law enforcement in the Commonwealth of the Northern Marianas is as important to the Department of Justice as law enforcement anywhere else in the United States, and we are grateful for your invitation to provide our views to the Committee.

II. Law Enforcement Problems in the CNMI

Under the leadership of Deputy Attorney General Eric H. Holder, Jr, several components of the Department of Justice have taken important strides to address law enforcement issues in the CNMI. The United States Attorney's Office, FBI, DEA, and Civil Rights Division, as well as the Child Exploitation and Obscenity, and Public Integrity Sections of the Criminal Division, the INS, Marshals Service and National Institute of Corrections are all involved in the Department's effort to combat crime in the CNMI. This effort addresses specific areas of crime in addition to systemic problems we face in enforcing laws in this newest jurisdiction of the U.S.

The Department of Justice, in cooperation with the Departments of Labor and Interior, has had a positive impact on the law enforcement situation in the CNMI. We have been successful in prosecuting individual cases. We have shut down illegal businesses and taken drugs and guns off the islands. While we are doing everything we can and our efforts have produced measurable results, our hands are tied to correct the problem.

Every day as we work to investigate and prosecute these cases, more criminals arrive on the CNMI. As we investigate to determine whether a recruiter who promised jobs to workers to get them to come to the CNMI committed fraud or is just a bad businessman, another group of cheated workers lands at the airport. As we seize a load of drugs brought in by members of the Japanese Yakuza or Chinese triad gangs, others are already on their way, ensured of easy access to the islands. As we put one gang member in jail, others arrive. In short, we are winning individual battles, but we may be losing the war.

Law enforcement in the CNMI is complicated by a number of factors not present in most U.S. jurisdictions. These factors, which go to the heart of effective law enforcement, arise from the immigration policies of the CNMI government.

Under the agreement by which the CNMI joined the United States, Congress has the authority to extend the Immigration and Nationality Act to the CNMI at any time. The federal government agreed for several reasons to not apply the INA immediately (in a decision which was not intended to be permanent) in the mid-1970s when it negotiated the eventual termination of the U.N. trusteeship over the islands. A reason put forth by the CNMI was the fear of the islands' negotiators that their archipelago might be overwhelmed by a massive influx of immigrants from nearby countries. Ironically, what has resulted from local CNMI control over immigration is indeed an explosion of the alien population that has had drastic consequences for the islands. This is not an immigrant population admitted for integrating into society with a view toward eventual citizenship. These alien workers are permitted by the CNMI to remain in the CNMI only for periods of a year or two, but we find that many workers are staying much longer. As a result, CNMI policies have led to a continual population increase of exploited temporary workers that lack political power. This alien population now actually accounts for 76 percent of the total working population of the CNMI.

This immigration policy has had a severe negative effect on law enforcement. Many of the aliens who find themselves on the CNMI are the victims of fraud. They left their homelands to follow promises of good paying jobs and U.S. citizenship and arrived in the CNMI to find neither. Many gave everything they owned to crooked recruiters and have no means of returning home. They are recruited and employed under indenture contracts that give their employers virtually total control over their stay.

These unfortunate souls have few options. They lack the resources to return home, and are forced to work for twenty or thirty dollars a day in a place with a cost of living comparable to that of Hawaii, one of the highest in the Nation. Until recently, many of these shops were surrounded by barbed wire fences. The barbed wire arched inward, as if to keep the workers in, rather than to keep others out. Even today almost all of the factories and many barracks are surrounded by high cyclone fences, with security guards controlling the movement of employees. Conditions in many of these factories are deplorable.

The dire situation these workers find themselves in causes them to shun law enforcement. Few legal aliens will step forward to report crimes for fear of losing their jobs, and even fewer will testify. Many come from countries where the citizens do not trust law enforcement officials, which leads them further away from our efforts. Others entered into foreign-based recruitment agreements that discourage any form of cooperation with law enforcement. We have discovered Chinese "shadow contracts" that forbid an employee to cooperate with CNMI labor officials. In one case, we had to join forces with the Philippine Labor Office to protect some of our witnesses who were being prosecuted criminally for cooperating with our efforts. The case involved waitresses working in a bar run by Japanese Organized Crime who were subject to lock-down conditions. Fortunately, we were able to get the Philippine law suit quashed and the case resulted in a \$600,000 judgment for the waitresses. The lock-down conditions were terminated as a result of the case.

Workers will endure a tremendous amount of hardship in order to remain and work because they need to pull themselves out of debt and they know that their contracts are good for only one year. If they fail to please their overseers and monitors they will be ostracized and returned home in debt. Once a worker is branded as a "snitch" he or she is blacklisted by the garment industry and will unlikely be legally employed in the CNMI again. Another obstacle to cooperation has been the local bureaucracy. The CNMI Department of Labor and Immigration (DOLI) has often been reluctant to issue work authorization to laborers who are seeking relief through the federal system. With both local industry and local agencies often colluding to

"starve out" those who cooperate, there is little wonder why workers find it so difficult to assist our law enforcement efforts.

The lack of federal immigration authority also directly facilitates the entry of criminals. As opposed to a local jurisdiction like the CNMI, a sovereign nation such as the United States is able to operate a "double-check" immigration system. Our double-check system is one in which (except for temporary visitors from certain nations that experience has shown present a low risk of immigration violation, and therefore can be screened at the port-of-entry), arriving aliens are screened twice by trained officers, first by a consular officer at a State Department post abroad before issuing a visa, and then by an immigration inspector at a U.S. port-of-entry. Although no screening system is foolproof in deterring criminal elements, our officers have access to international and U.S. lookout information that in many cases enables them to detect criminals, terrorists and other dangerous aliens attempting to enter the United States.

None of these important safeguards exists in the CNMI, which has no consular operations abroad and therefore cannot operate a double-check system, nor are CNMI immigration facilities sufficiently secure to be granted access to federal lookout information. As a result, members of Chinese Triad and Japanese Yakuza gangs have infiltrated the CNMI, bringing with them the criminal trades they plied in their homelands -- drug trafficking, money laundering, gun sales, and corruption. Perhaps the worst thing they bring to the population of the CNMI is fear. Those who might otherwise be willing to report crimes or even to testify refuse to do so because they fear violence -- either to themselves from gang members on the island, or attacks directed at their families back home.

III. Recent DOJ Efforts in the CNMI

These problems complicate law enforcement in the CNMI. Last year, Deputy Attorney General Holder convened a working group of Department of Justice agencies involved in the CNMI to work toward solving the major enforcement problems there. The Department has implemented a number of the recommendations of the working group. Consistent with the Administration's Anti-Violent Crime Initiative, these efforts are in partnership among the agencies and the local authorities.

As I noted above, one of the major problems with prosecuting crimes in the CNMI is the reluctance of witnesses to cooperate and testify. In order to encourage witnesses to report and provide evidence of crimes the Department has established a victim/witness coordinator and has created a Temporary Witness Protection program. These programs are aimed in appropriate cases at making the decision to become a government witness less dangerous, and less difficult. And, because so many of the witnesses are non-English speaking, we are engaged in an uphill battle to locate and hire translators capable of working with prosecutors to gather evidence. We have also provided training to the CNMI law enforcement personnel in gathering, retention and use of forensic evidence, and in numerous other areas.

The Yakuza and Chinese Triad gangs have brought with them the trafficking of drugs, including Methamphetamine, heroin and marijuana. As a result, drug trafficking has become a serious problem in CNMI. To combat this problem, the DEA has established a working group with the CNMI authorities to combat narcotics trafficking. To date, the task force has produced 64 arrests and 42 convictions and has seized 1260 grams of Methamphetamine, 14 kilos of heroin, and numerous assets associated with the seized drugs. In addition to its work with the task force, the DEA has provided and continues to provide counternarcotics training to CNMI law enforcement officers. The DEA continues to assist and support the establishment of a Drug Demand Reduction Program by the CNMI government, but the local government currently lacks the funds to institute it. DEA has committed further resources to the enforcement effort by

supplying a second DEA agent to the CNMI in June of this year.

The Department of Justice has also taken steps to assist the federal agencies in fighting public corruption. Last year, an attorney from the Public Integrity Section of the Criminal Division traveled to the Marianas to determine how the Department could best help. The Public Integrity Section has committed to providing training and assistance to the U.S. Attorney's office as it investigates corruption. The FBI has established a joint task force with the CNMI government to investigate public corruption, and is working in cooperation with the appropriate investigative units in the other federal agencies involved in the CNMI to uncover and prosecute corruption.

Trafficking in women and forced prostitution also exist in the Northern Marianas. Last year, an attorney from the Child Exploitation and Obscenity Section of the Criminal Division went to the CNMI to assess the prevalence of trafficking in women, and to determine how the Department can best address the problem. The Department is currently reviewing her recommendations. The US Attorney's Office recently obtained convictions in three separate cases of persons who had forced young women from the Philippines and from China to engage in prostitution. Attorneys from the Civil Rights Division assisted the U.S. Attorney's office in prosecuting these cases. The Civil Rights Division also sent an attorney for two months to the CNMI to investigate potential criminal and civil violations of the civil rights laws.

Although the INS does not have immigration law jurisdiction in the CNMI, it has stationed an immigration officer there since 1996 for liaison purposes, and has provided technical assistance and training to CNMI officials. The Marshals Service also has a presence on the islands. Two Deputy U.S. Marshals are assigned to the USMS office on Saipan, and three court security officers are assigned to the U.S. Courthouse.

IV. Application of the Federal Immigration Law is Essential

We can and will continue to do our best to fight crime in the CNMI, and to work with other federal agencies and the government of the CNMI to do so. We will continue our efforts, targeting specific areas of crime, and providing support for investigations and prosecutions. However, in order to control crime in the CNMI, the U.S. government must be able to prevent criminals from gaining unlimited access to the islands. We cannot expect to stop the flow of drugs, or guns, or trafficking in women and forced prostitution, unless we keep out the people who we know are already committing these crimes. The Immigration and Nationality Act that applies on the mainland and in other U.S. jurisdictions helps keep criminals out, and it is the position of the Department of Justice that the only way to fight effectively the larger crime problem on the CNMI is to apply the Act as it is applied in other U.S. jurisdictions with appropriate transitional phase-in provisions to prevent avoidable adverse impacts on the economy.

As was reiterated at a hearing before the Senate on Tuesday, the Administration both supports (with some necessary amendments) pending legislation that would apply federal immigration law in the CNMI with appropriate transition provisions, and is preparing to send forward a legislative proposal that would make the necessary immigration reforms and address other needs such as a federal minimum wage. Federal immigration authority would allow us to screen those who would seek to enter the CNMI to keep out known gang members and other international criminals who would come into the United States to continue their harmful and dangerous activities. Merely preventing these known criminals from entering the CNMI would be a major step toward reducing crime on the islands.

V. Conclusion

Applying the Immigration and Nationality Act to the CNMI is a necessary beginning, but we also will need the resources to enforce those laws effectively, including detaining, removing from the United States, and in appropriate cases prosecuting and imprisoning those who violate them. The Department of Justice stands ready to assist in this effort, and we remain committed to effective law enforcement in the Commonwealth of the Northern Marianas.

I wish again to thank the Chair, Congressman Miller, and the Committee Members for the opportunity to provide the views of the Department of Justice on this important issue. We look forward to working with you.

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